

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

IN RE: TERRORIST ATTACKS ON :
SEPTEMBER 11, 2001 : MDL 03-1570 (GBD)(SN)

This Document Relates To:

Havlish, et al. v. bin Laden, et al., Case No. 03-CV-09848
Ashton, et al. v. al Qaeda Islamic Army, et al., Case No. 02-CV-06977
Burnett, Sr., et al., v. Islamic Republic of Iran, Case No. 15-CV-9903
Burlingame, et al. v. bin Laden, et al., Case No. 02-CV-07230
Bauer, et al. v. al Qaeda Islamic Army, et al., 02-CV-07236
O'Neill, Sr., et al. v. Republic of Iraq, et al., Case No. 04-CV-1076
Federal Insurance Co., et al. v. al Qaida, et al., Case No. 03-CV-06978

Dillaber, et al. v. Islamic Republic of Iran, et al., Case No. 18-CV-03162
Agyeman, et al. v. Islamic Republic of Iran, et al., Case No. 18-CV-05320
Morris, et al. v. Islamic Republic of Iran, et al., Case No. 18-CV-05321
Derubbio, et al. v. Islamic Republic of Iran, et al., Case No. 18-CV-05306
Schlissel, et al. v. Islamic Republic of Iran, et al., Case No. 18-CV-05331
Kamardinova, et al. v. Islamic Republic of Iran, et al., Case No. 18-CV-05339
Ades, et al. v. Islamic Republic of Iran, et al., Case No. 18-CV-07306

**THE HAVLISH PLAINTIFFS' RENEWED MOTION
FOR AN ORDER CREATING A COMMON BENEFIT FUND AND
AUTHORIZING CERTAIN DISBURSEMENTS THEREFROM**

The *Havlish* Plaintiffs, by and through their counsel, respectfully move this Court, pursuant to its inherent equitable powers, to enter an Order creating a common benefit fund, and, further, authorizing certain disbursements therefrom. This motion pertains to all member cases of this MDL that have named as defendant(s) the Islamic Republic of Iran and/or its agencies and instrumentalities. The *Havlish* Plaintiffs hereby move the Court for an order creating a common benefit fund for the purpose of compensating and reimbursing the *Havlish* attorneys for services performed and expenses incurred in developing and presenting the evidence and legal argument

that established liability against Iran and resulted in the *Havlish* Judgment and the *Havlish* Findings of Fact and Conclusions of Law and, all of which were subsequently used, and will in the future be used, to produce liability and damages findings and, ultimately, final judgments for all each of the Responding Plaintiffs and in all cases in which similar allegations against Iran are pending, or which are yet to be filed and consolidated in these MDL proceedings. The *Havlish* Plaintiffs request that the Court's order direct the Responding Plaintiffs and all future Plaintiffs (hereinafter, the "Responding Plaintiffs") that obtain judgment against Iran and/or its agencies or instrumentalities to deposit the sum of twelve percent (12%) of their recoveries into the common benefit fund. Further, the *Havlish* Plaintiffs request that the Court authorize payments to the *Havlish* attorneys of all sums placed into the common benefit fund by virtue of USVSST Fund distributions received by the Responding Plaintiffs in 2019 and continuing through all future years of the USVSST. In particular, the *Havlish* Plaintiffs seek an order:

- (1) directing the Responding Plaintiffs to set aside twelve percent (12%) of any amounts collected on the Responding Plaintiffs' judgments by any means;
- (2) directing counsel for the Responding Plaintiffs to deposit such assessed amounts into a common benefit fund escrow account to be established and maintained by lead counsel for the *Havlish* Plaintiffs, and to notify *Havlish* lead counsel of the origin or source of such collected funds;
- (3) to the extent such deposited funds were derived from payments to Responding Plaintiffs by the USVSST Fund, directing the distribution of such funds to the *Havlish* attorneys as reimbursement of costs associated with, and compensation for, the benefit bestowed upon Responding Plaintiffs; and
- (4) to the extent such deposited funds were derived from judgment collection sources

other than the USVSST Fund, whenever they occur, directing that distribution of such funds to the *Havlish* attorneys, or to other attorneys, or returned to the Responding Plaintiffs and their counsel who made the deposit, in whole or in part, be subject to the Court's consideration of the particular facts and circumstances surrounding such judgment collection(s), and be subject to further order(s) by the Court.

In the event the Court's consideration of this motion takes longer than the time for the next round of USVSST payments to be made, or for any other recoveries by Responding Plaintiffs to occur, it is further requested that the Court order the Responding Plaintiffs to deposit into the Court registry the sum of 12% of their total USVSST payments received, or other recoveries made, pending resolution of this Motion, or to order a similar arrangement.

Respectfully Submitted,

Date: December 18, 2018

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